IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No. 102 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF WEALTH-TAX - Applicant(s)
Versus
SHANTABEN J PATEL - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
None for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

and

HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/07/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Mr. M.R. Bhatt, learned counsel for the Revenue, none for the respondent, office report shows that the respondent is served.
2. Income-tax Appellate Tribunal, at the instance of the Revenue has referred the following question to this Court for its answer.

   “Whether, the appellate Tribunal is right in law and on facts in directing the WTO to value the unquoted shares of private limited companies by holding that the advance tax paid under the Income Tax Act, 1961 and shown on the asset side of the balance sheet of the said companies cannot be deducted from the tax payable, in determining whether the provision for taxation is in excess over the tax payable with reference to the book profit in accordance with the law applicable thereto, within the meaning of clause [ii][3] of Explanation 2 to Rule 1D of the Wealth Tax Rules, 1957?”

2. In WTR No. 60 of 1995, we have taken the view that the Tribunal was, though justified in placing reliance upon the judgment in the matter of **CIT v. Ashok Parikh, reported in 129 ITR 46,** but in view of the subsequent judgment of the Supreme Court in the matter of **CIT v. Bharat Hari Singhania, reported in 207 ITR 1,** the view taken by this Court stands impliedly overruled and consequently, the judgment passed by the Tribunal would also become bad.
3. As the assessee is the same, without entering

into further details, we hereby answer the question in favour of the Revenue but with further direction that the matter would stand remanded to the Income-tax Appellate Tribunal for its decision afresh in light of the judgment of the Supreme Court in the matter of Bharat Hari Singhania [supra]. The Reference is answered in favour of the Revenue, but with above-referred further direction. The Reference stands disposed of.

[R.S. GARG, J.]

[M.R. SHAH, J.]

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